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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/272,958	03/19/1999	ALBERT D. BAKER	18-8	6333

7590 05/18/2004
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EXAMINER

YAO, KWANG BIN

ART UNIT PAPER NUMBER

2667

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/272,958

Applicant(s)

BAKER ET AL.

Examiner

Kwang B. Yao

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,12,13,15,16,18 and 23-26 is/are rejected.
- 7) ☒ Claim(s) 3,6,8-11,14,17 and 19-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Reopening of Prosecution After Appeal

1. In view of the Appeal Brief filed on 11/6/03, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 12, 13, 15, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by McTiffin (US 5,406,550).

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McTiffin discloses a communication system comprising the following features: as depicted in Figs. 1, 2, 3, regarding claim 1, generating a command symbol (CDMA code) representative of a plurality of commands (VPI, VCI) in accordance with a terminal protocol (ATM) supported by a switch (17) of the system; and transmitting the command symbol to a terminal (18) having a valid command space which is less than a full command space of the terminal protocol (ATM), wherein the terminal (18, 10) decodes the symbol and executes the corresponding plurality of commands (VPI, VCI); regarding claim 2, wherein the terminal protocol is a wired terminal protocol (ATM), and the terminal is a wireless terminal (18); regarding claim 4, wherein the wired terminal protocol utilizes a field-based fixed-length packet format including a header portion and a command portion (ATM); regarding claim 12, a memory (8), associated with a switch of the system, for storing a set of command symbols, wherein each of at least a subset of the command symbols (CDMA codes) is representative of a plurality of commands (VPI, VCI) in accordance with a terminal protocol (ATM) supported by the switch; and a processor (2) coupled to the memory and operative to direct the transmission of a particular one of the command symbols (CDMA code) to a terminal (3) having a valid command space which is less than a full command space of the terminal protocol, wherein the terminal (10) decodes the symbol and executes the corresponding plurality of commands; regarding claim 13, wherein the terminal protocol is a wired terminal protocol (ATM), and the terminal is a wireless terminal (3); regarding claim 15, wherein the wired terminal protocol (ATM) utilizes a field-based fixed-length packet format including a header portion and a command portion; regarding claim 23, wherein the processor (2) comprises a central processing unit of the switch; regarding claim 24, wherein at least one of the memory (8) and the processor (2) are associated with a port

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card in the switch of the system; regarding claim 25, a system terminal (17) operative to receive command symbols from a system switch (16), each of at least a subset of the command symbols (CDMA code) being representative of a plurality of commands (VPI, VCI) in accordance with a terminal protocol (ATM) supported by the switch, wherein the terminal (18) has a valid command space which is less than a full command space of the terminal protocol (ATM), and wherein the terminal (10) decodes a given one of the symbols and executes the corresponding plurality of commands; regarding claim 26, a machine-readable storage medium storing one or more programs for implementing a method of controlling a terminal in a communication system, which when executed implement the steps of: generating command symbols (CDMA codes), each of at least a subset of the command symbols (CDMA code) representative of a plurality of commands (VPI, VCI) in accordance with a terminal protocol (ATM) supported by a switch of the system; and directing the terminal, via a given one of the symbols when transmitted to a terminal (18) having a valid command space which is less than a full command space of the terminal protocol (ATM), to execute the corresponding plurality of commands (VPI, VCI).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 7, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McTiffin (US 5,406,550) in view of Beeker et al. (US 4,397,030).

McTiffin discloses the claimed limitations above. McTiffin does not disclose the following features: regarding claim 5, wherein the header portion includes at least one of a primary switchhook indicator, a secondary switchhook indicator, an extended protocol indicator and a test indicator; regarding claim 7, wherein a given one of the command symbols specifies commands associated with at least the primary switchhook and the test indicator; regarding claim 16, wherein the header portion includes at least one of a primary switchhook indicator, a secondary switchhook indicator, an extended protocol indicator and a test indicator; regarding claim 18, wherein a given one of the command symbols specifies commands associated with at least the primary switchhook and the test indicator. Beeker et al. discloses a digital communication system comprising the following features: regarding claim 5, wherein the header portion includes at least one of a primary switchhook indicator, a secondary switchhook indicator, an extended protocol indicator and a test indicator; regarding claim 7, wherein a given one of the command symbols specifies commands associated with at least the primary switchhook and the test indicator; regarding claim 16, wherein the header portion includes at least one of a primary switchhook indicator, a secondary switchhook indicator, an extended protocol indicator and a test indicator; regarding claim 18, wherein a given one of the command symbols specifies commands associated with at least the primary switchhook and the test indicator. See column 8, lines 28-69. It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of McTiffin, by using the features, as taught by Beeker et al., in order to provide advantage of transmitting signaling information and data simultaneously at a low bit rate. See Beeker et al., column 1, lines 27-36.

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Allowable Subject Matter

6. Claims 3, 6, 8-11, 14, 17, 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

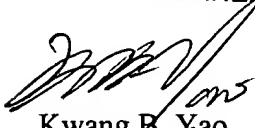
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 703-308-7583. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KWANG BIN YAO
PRIMARY EXAMINER



Kwang B. Yao
May 13, 2004